

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CR. NO. 2:06-cr-275-WKW
)
JACOB WARNER)

ORDER

On April 6, 2007, Defendant Jacob Warner filed an Unopposed Motion to Continue Trial. (Doc. # 29.) While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any "[a]ny period of delay resulting from a continuance granted by any judge . . . at the request of the defendant or his counsel . . . if the judge granted such continuance on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. ." 18 U.S.C. § 3161(h)(8)(A).

In Warner's motions to continue, his counsel asserts that he was appointed to the case recently and has not had sufficient time to prepare for trial. The government does not oppose

the motion. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweigh the best interest of the public and the defendant in a speedy trial.

Accordingly, it is hereby ORDERED that:

1. The motion to continue (Docs. # 29) is GRANTED.
2. The trial of this case is continued from the April 23, 2007, trial term to the August 6, 2007, trial term.
3. The Magistrate Judge shall conduct a pretrial conference prior to the August 6, 2007, trial term and enter a pretrial conference order.

DONE this 10th day of April, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE